

REMARKS

The present Amendment is in response to the Official Action mailed December 29, 2008. Because of the finality of that Action, the present Amendment is being submitted along with a Request for Continued Examination ("RCE"). As such, Applicants respectfully request that the present Amendment be entered.

In the present Amendment, claims 1, 2, 5, 8, 9, 12, 18, 19, 22, 24, and 25 have been amended. No claims have been added or canceled. Therefore, claims 1-25 remain currently pending in the present case. The following sets forth Applicants' remarks pertaining to the currently pending claims and the outstanding Action.

As an initial matter, Applicants respectfully thank the Examiner for conducting the telephonic interview of February 19, 2009. That discussion revolved around the rejections set forth in the outstanding Action. Subsequent to that discussion, on February 27, 2009, Applicants followed up per the Examiner's suggestions with a more detailed summary of Applicants' positions regarding the rejections and the previously presented claims. Follow-up discussions were then held on March 30 and 31, 2009. Ultimately, the Examiner agreed that the additional subject matter of dependent claim 5 (which is identical to the additional subject matter of dependent claims 12 and 22) was indeed allowable over the prior art of record. None of the prior art references teach the further limitations set forth in dependent claim 5, namely, the inclusion of elastic fingers and a sleeve which prevents separation of those fingers upon translation. In the present Amendment, independent claims 24 and 25, which were previously amended to include subject matter noted as allowable by the Examiner, have been amended to include the subject matter of noted allowable dependent claim 5. As such, Applicants respectfully submit that those independent

claims clearly constitute allowable subject matter. However, Applicants have made less limiting amendments to independent claims 1, 8, and 18 in the present Amendment, as they believe less limitations are required in those claims to overcome the outstanding rejections. This will be discussed more fully below.

In particular, each of independent claims 1, 8, and 18 have been amended to further require that the pusher member include "a sleeve at least partially surrounding said second end." Dependent claims 2, 5, 9, 12, 19, and 22 have also been amended for consistency purposes. In Applicants' opinion, none of the prior art cited teaches a sleeve at least partially surrounding a second end of the rod persuader. In particular, the primary reference cited in rejecting previously presented claims 1-25 under 35 U.S.C. § 103(a), i.e., U.S. Patent No. 5,720,751 to Jackson ("Jackson"), simply does not meet this limitation. Neither does the secondary reference, i.e., U.S. Patent No. 6,159,215 to Urbahns et al. ("Urbahns"). While Jackson indeed teaches an abutment member 20, such is only disposed on one side of the persuader device. Thus, that element does not at least partially surround the second end of the device taught in Jackson. This is in contrast to the present invention, as claimed. Moreover, it is worth noting that because Jackson teaches a persuader which operates on a threading principal, there is simply no need for a sleeve to surround the second end. As such, Applicants firmly believe that independent claims 1, 8, and 18, as amended, overcome the rejections set forth in view of the combination of Jackson and Urbahns.

Although not specifically discussed herein, Applicants also note that the remaining dependent claims overcome such rejections based upon their proper dependence from one of independent claims 1, 8, or 18, or an intervening claim.

Additionally, such claims may in and of themselves even more clearly further define over the cited prior art. For instance, as is discussed above, dependent claims 5, 12, and 22 clearly define structure not taught or suggested by the prior art. Therefore, in light of the foregoing, Applicants respectfully request allowance of each and every one of the currently pending claims.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which she might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: April 29, 2009

Respectfully submitted,
Electronic signature: /Kevin M.
Kocun/
Kevin M. Kocun
Registration No.: 54,230
LERNER, DAVID, LITTBENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicants